RECENT CASES.

CARRIERS OF GOODS—LOSS THROUGH ACT OF GOD—PREVIOUS NEGLIGENCE.—EMPIRE STATE CATTLE CO. v. ATCHINSON, T. & S. F. RY. CO., 135 FED. 136. Property was negligently delayed in transportation. But for this delay it would not have been subjected to a subsequent danger in which it was totally destroyed, which danger was occasioned by an act of God, reasonably unforseen.—*Held*, that the negligent delay was not the proximate cause of the injury.

The negligence must be the proximate cause of the loss. *Scott v. Baltimore, C. & R. S. Co.*, 19 Fed. 56. The Federal courts have been constant in upholding this doctrine since the Supreme Court first laid it down in *Ry. Co. v. Reeves*, 77 U. S. 176 (1869). See also *Lamont v. Nashville & C. R. Co.*, 56 Tenn. 58; *Hoadley v. Northern Transp. Co.*, 115 Mass. 304. Other courts, for reasons which seem very plausible, have failed to agree with the above. *Michaels v. N. Y. Central Ry. Co.*, 30 N. Y. 564; *Meyer v. Vicksburg, R. Co.*, 41 La. Ann. 639. Especially do the courts so hold where the delay amounts to a violation of contract. *Cassiday v. Young*, 43 Ky. 265; *Denison v. N. Y. Central Ry. Co.*, 3 Lans. 265. And where the delay was caused by carrying the goods out of the usual and direct route. *Merchants Despatch Co. v. Kahn*, 76 Ill. 520. The Federal courts have sustained their position where the destruction resulted during the continuance of the negligent delay. *Thomas v. Lancaster Mills*, 71 Fed. 481. The contrary is held in *Hernsheim v. Newport News Co.*, 35 S. W. 1115; *Meyer v. Vicksburg, etc., R. Co., supra.*

CARRIERS OF PASSENGERS—INTERSTATE COMMERCE—WHAT CONSTITUTES.—STATE v. SEAGRAVES, 85 S. W. (Mo.). 925.—*Held*, that carrying passengers on a steamboat is not interstate commerce, although the boat may touch the shores of different states.

Where the real destination of stock was a yard across the boundary of the state, it was held that its carriage did not constitute interstate commerce. *Moore v. Moore*, 41 Mo. App. 176; *Scammon v. Ry. Co.*, 41 Mo. App. 194. It has been held that goods whose points of departure and destination are in the same state, though passing through an adjoining state in their transit, are not in interstate commerce, *Seawall v. Ry. Co.*, 119 Mo. 222; but this resulted from a misunderstanding of *Lehigh Valley R. Co. v. Penn.*, 145 U. S. 192, and is now settled *contra*. *Hanley v. Ry. Co.*, 187 U. S. 617. And where commerce is carried by way of the high seas, though from one port in a state to another in the same state, it is under federal control. *Lord v. S. S. Co.*, 102 U. S. 541. But see *N. O. Exch. v. Ry. Co.*, 2 Int. Com. R. 375; *State v. Ry. Co.*, 41 N. W. (Minn.) 1047.

CONSTITUTIONAL LAW—POLICE POWER—EXTRA BURDENS ON MERCHANTS USING TRADING STAMPS.—MONTGOMERY v. KELLY, 38 So. 67 (ALA.).—A city ordinance required merchants giving trading stamps to pay a license in addition to that required of other merchants engaged in the same line of business, but not giving trading stamps. *Held*, that the ordinance was an attempt, under the guise of a license tax, to fix a penalty on a merchant for conducting his business in a certain way, and was therefore unconstitutional under the "life, liberty and pursuit of happiness" clause, and also under the clause "to protect the citizen in the enjoyment of life, liberty and property."